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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/670,121	09/26/2000	Alain Bouilloux	33831F131	4873

7590 10/02/2003

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EXAMINER

WOODWARD, ANA LUCRECIA

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 10/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

☒ Responsive to communication(s) filed on 7/14/2003

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

☒ Claim(s) 1, 3-5, 12, 13 and 15-17 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 3-5, 12, 13 and 15-17 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some\* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other \_\_\_\_\_

Office Action Summary

**DETAILED ACTION*****Claim Rejections - 35 USC § 103***

1. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 6,576,309 (Dalgewicz, III et al).

Patentees disclose thermoplastic compositions comprising a bulk polymer, an additive in a concentration from about 4 wt% to about 40 wt% and a compatibilizer/emulsifier/surfactant (CES) in a concentration from about 0.1 wt% to about 8 wt%, based on the total weight of the composition (column 4, lines 10-16). The bulk polymer comprises a polyester, the additive comprises an amorphous copolymer of ethylene and a co monomer that forms polar portions and the CES comprises a copolymer or terpolymer of ethylene and a glycidyl acrylate or maleic anhydride, and optionally an acrylate such as ethylhexylacrylate. Ethylene/glycidyl methacrylate/ethylhexyl acrylate terpolymer and ethylene/maleic anhydride/ethylhexyl acrylate terpolymer (meeting the presently claimed component B) are immediately envisaged species from the small genus of CES polymers disclosed by the reference (column 5, lines 20-25 and claims).

In essence, the disclosure of the reference differs from the above-rejected claims in not expressly exemplifying the use of a polyamide. In this regard, attention is directed to column 7, lines 48-51, which states that minor amounts of one or more additional polymers (e.g., up to about 10 percent by weight), such as polyamides, can optionally can be incorporated into the composition. Accordingly, it would have been obvious to one having ordinary skill in the art to have additionally incorporated a polyamide into patentees' base composition for its expected additive effect and with the reasonable expectation of success. Thus, a composition containing,

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for example, up to 10 percent by weight polyamide and about 3 percent by weight of one of the above-identified CES terpolymers meeting applicants' component B, based on the total weight of the composition, would meet the compositional requirements of the present claims both in terms of the types of materials added and their contents. This is because in the present claims, the recited amounts governing the polyamide and component B can be interpreted as being based on the sum total of said two components, as opposed, to the total weight of the composition.

2. Claims 1, 3-5, 12, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 6,576,309 (Dalgewicz et al) described hereinabove.

Patentees disclose thermoplastic compositions comprising a bulk polymer, an additive in a concentration from about 4 wt% to about 40 wt% and a compatibilizer/emulsifier/surfactant (CES) in a concentration from about 0.1 wt% to about 8 wt%, based on the total weight of the composition (column 4, lines 10-16). The bulk polymer comprises a polyester, the additive comprises an amorphous copolymer of ethylene and a co monomer that forms polar portions and the CES comprises a copolymer or terpolymer of ethylene and a glycidyl acrylate or maleic anhydride, and optionally an acrylate such as ethylhexylacrylate. Ethylene/glycidyl methacrylate/ethylhexyl acrylate terpolymer and ethylene/maleic anhydride/ethylhexyl acrylate terpolymer (meeting the presently claimed component B) are immediately envisaged species from the small genus of CES polymers disclosed by the reference (column 5, lines 20-25 and claims).

In essence, the disclosure of the reference differs from the above-rejected claims in not expressly exemplifying the use of a polymer meeting applicants' matrix M. In this regard, attention is directed to column 7, lines 48-51, which states that minor amounts of one or more

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additional polymers (e.g., up to about 10 percent by weight), such as polycarbonates, can optionally can be incorporated into the composition. Accordingly, it would have been obvious to one having ordinary skill in the art to have additionally incorporated a polycarbonate into patentees' base composition for its expected additive effect and with the reasonable expectation of success. Thus a composition additionally containing polycarbonate would meet applicants' polycarbonate-polyester alloys, as well as, polycarbonate matrices. With respect to the polycarbonate embodiment, patentees' composition containing, for example, up to 10 percent by weight polycarbonate and about 3 percent by weight of one of the above-identified CES terpolymers meeting applicants' component B, based on the total weight of the composition, would meet the compositional requirements of the present claims both in terms of the types of materials added and their contents. This is because in the present claims, the recited amounts governing the polycarbonate and component B can be interpreted as being based on the sum total of said two components, as opposed, to the total weight of the composition.

### ***Response to Amendment***

3. Applicant's amendments July 14, 2003 have effectively overcome the rejection over U.S. 4,977,216 (Elia).

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

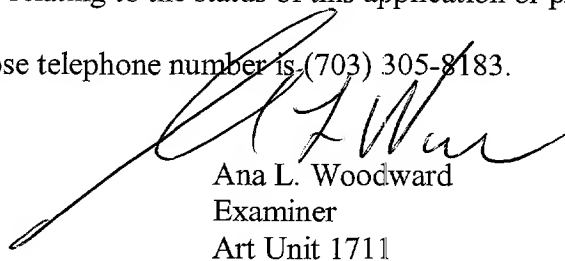
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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana L. Woodward whose telephone number is (703) 308-2401. The examiner can normally be reached on Monday-Friday (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on (703) 308-2462. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-8183.



Ana L. Woodward  
Examiner  
Art Unit 1711

AW